

AMENDED IN SENATE JUNE 21, 2000

CALIFORNIA LEGISLATURE—1999–2000 REGULAR SESSION

**ASSEMBLY BILL**

**No. 1813**

**Introduced by Assembly Member Wildman**

February 3, 2000

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An act to amend Section 17072.13 of the Education Code, ~~relating to school facilities~~, and to repeal and add Section 25358.6 of the Health and Safety Code, relating to hazardous substances.

LEGISLATIVE COUNSEL'S DIGEST

AB 1813, as amended, Wildman. School facilities: site contamination funding: *hazardous substance contracts*.

~~Existing~~

(1) *Existing* law authorizes the State Allocation Board to provide 50% of the costs of the evaluation of hazardous substances at a site to be acquired by a school district and costs relating to removal of the hazardous substances, not to exceed a prescribed amount, and to provide funding for up to 100% of those costs by a school district eligible for financial hardship assistance, not to exceed a prescribed amount. Existing law further authorizes a school district that meets environmental hardship criteria, as specified, to apply to the board for site acquisition funding prior to approval of construction plans by the Division of the State Architect and State Department of Education.

This bill would provide that site acquisition funding for a school district that meets environmental hardship criteria is

subject to the prescribed funding limits for the evaluation and removal of hazardous substances at sites to be acquired by a school district, and may not result in an increase in those funding limits to a school district.

(2) *Existing law authorizes the Department of Toxic Substances Control to prequalify bidders for remedial or removal actions taken pursuant to the Carpenter-Presley-Tanner Hazardous Substance Account Act, by adopting and applying a uniform system of rating bidders.*

*Existing law requires a state agency head to select professional services of private architectural, landscape architectural, engineering, environmental, land surveying, or construction project management firms pursuant to specified procedures. Existing law imposes specified requirements upon state agencies expending funds for capital outlay projects.*

*This bill would repeal the prequalification authority of the department and would instead exempt from the provisions regulating professional services, the department's contracts with providers of architectural and engineering services to perform removal and remedial action and with providers of services to implement final remedial action plans at hazardous substance release sites for which state funds are expended. The bill would require the department to select the vendors of these services pursuant to a specified procedure.*

*The bill would also exempt, from the capital outlay requirements, the department's contracting with private vendors to perform removal and remedial actions at hazardous substance release sites owned by the state.*

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

*The people of the State of California do enact as follows:*

1 SECTION 1. Section 17072.13 of the Education Code  
2 is amended to read:



17072.13. In addition to the amounts provided pursuant to Sections 17072.10 and 17072.12, the board may provide funding as follows:

(a) For 50 percent of the cost of the evaluation of hazardous materials at a site to be acquired by a school district and for 50 percent of the other response costs of the removal of hazardous waste or solid waste, the removal of hazardous substances, or other remedial action in connection with hazardous substances at that site. Except as provided in subdivision (b), the funding provided pursuant to this section may not exceed 50 percent of a number calculated by subtracting the school district's cost of the site from what the appraised value of the site would be after the response action is completed.

(b) The board may provide funding for up to 100 percent of the cost of the evaluation of hazardous materials at a site to be acquired by a school district eligible for financial hardship assistance pursuant to Article 8 (commencing with Section 17075.10) and for up to 100 percent of the other response costs for the site. The funding provided pursuant to this subdivision may not exceed 100 percent of a number calculated by subtracting the school district's cost of the site from what the appraised value of the site would be after the response action is completed.

(c) A school district with a site that meets the environmental hardship criteria set forth in paragraph (1) may apply to the board for site acquisition funding for that site prior to having construction plans for that site approved by the Division of the State Architect and State Department of Education. The site acquisition funding is subject to the funding limits provided in subdivisions (a) or (b) and may not result in an increase in the funding limits available to a school district under this section.

(1) A project is eligible for environmental hardship site acquisition funding if both of the following apply:

(A) The remedial action plan for the site approved by the Department of Toxic Substances Control, pursuant to Section 17213, is estimated by the Department of Toxic

1 Substances Control to take six months or more to  
2 complete.

3 (B) The State Department of Education determines  
4 that the site is the best available alternative site.

5 (2) The initial site-specific reservation pursuant to this  
6 subdivision shall be for a period of one year. Extension  
7 may be approved in one-year intervals upon  
8 demonstration to the State Allocation Board of progress  
9 toward acquisition. In the event there is not  
10 demonstrable progress, the State Allocation Board shall  
11 have the option of rescinding the reservation.

12 (3) Environmental hardship site acquisition funds  
13 approved by the State Allocation Board can be used only  
14 for the site identified in the remedial action plan  
15 approved by the Department of Toxic Substances  
16 Control.

17 (4) The date that the State Allocation Board approves  
18 the environmental hardship site acquisition funding will  
19 become the State Allocation Board approval date for the  
20 project's construction funding for that site.

21 (5) A school district may apply to the State Allocation  
22 Board for construction funding for the environmental  
23 hardship site when the project has received final Division  
24 of the State Architect plan approval and final State  
25 Department of Education site and plan approval.

26 (d) The cost incurred by the school districts when  
27 complying with any requirement identified in this section  
28 are allowable costs for purposes of an applicant under this  
29 chapter and may be reimbursed in accordance with  
30 Section 17072.12.

31 (e) The State Allocation Board shall develop  
32 regulations that allow school districts with financial  
33 hardship site acquisition funding prior to ownership of  
34 the site or evidence that the site is in escrow.

35 *SEC. 2. Section 25358.6 of the Health and Safety Code*  
36 *is repealed.*

37 ~~25358.6. (a) The department may prequalify bidders~~  
38 ~~for remedial or removal actions taken pursuant to Section~~  
39 ~~25354 or subdivision (a) of Section 25358.3. The~~

1 department may reject the bid of any prospective bidder  
2 that has not been prequalified.

3 (b) To prequalify bidders, the department shall adopt  
4 and apply a uniform system of rating bidders. In order to  
5 obtain information for such rating, the department may  
6 require from prospective bidders answers to questions,  
7 including, but not limited to, questions about the bidder's  
8 financial ability, the bidder's experience in removal and  
9 remedial action involving hazardous substances, the  
10 bidder's past safety record, and the bidder's past  
11 performance on federal, state, or local government  
12 projects. The department may also require prospective  
13 bidders to submit financial statements.

14 (c) The department shall utilize the business financial  
15 data and information submitted by a bidder pursuant to  
16 subdivision (b) only for the purposes of prequalifying  
17 bidders pursuant to this section and shall not otherwise  
18 disseminate this data or information.

19 (d) The system of rating bidders may be adopted by  
20 the department as emergency regulations in accordance  
21 with Chapter 3.5 (commencing with Section 11340) of  
22 Part 1 of Division 3 of Title 2 of the Government Code,  
23 and for purposes of that chapter, when these regulations  
24 are adopted as emergency regulations pursuant to  
25 Section 11349.6 of the Government Code, the regulations  
26 shall be deemed to be necessary for the immediate  
27 preservation of the public peace, health and safety, and  
28 general welfare. It is the intent of the Legislature that  
29 emergency regulations adopted pursuant to this  
30 subdivision shall remain in effect until the regulations are  
31 adopted as final regulations, pursuant to Chapter 3.5  
32 (commencing with Section 11340) of Part 1 of Division 3  
33 of Title 2 of the Government Code.

34 SEC. 3. Section 25358.6 is added to the Health and  
35 Safety Code, to read:

36 25358.6. (a) Notwithstanding Chapter 10  
37 (commencing with Section 4525) of Division 5 of Title 1  
38 of the Government Code, the department may enter into  
39 contracts with both of the following for a hazardous  
40 substance release site for which state funds are expended

1 pursuant to this chapter or Chapter 6.5 (commencing  
2 with Section 25100):

3 (1) Providers of architectural and engineering  
4 services to perform removal and remedial action work,  
5 including construction management.

6 (2) Providers of services to implement a final remedial  
7 action, based upon an approved engineering design.

8 (b) The department shall comply with all of the  
9 following procedures with regard to a contract subject to  
10 subdivision (a):

11 (1) The department shall select a vendor for the  
12 services specified in paragraph (1) or (2) of subdivision  
13 (a) based on responses to a competitive procurement  
14 process initiated by the department, which shall include  
15 the type, quality, and costs of the services that would be  
16 provided by the vendor.

17 (2) A contract with a selected vendor shall establish an  
18 hourly rate for the various types and levels of technical  
19 and clerical personnel that will be used by the vendor to  
20 provide services under the contract and shall establish  
21 rates for specific types of field activities deemed  
22 necessary and appropriate by the department, unless a  
23 project labor agreement is already in place, in which case  
24 the term of that project labor agreement shall govern the  
25 hourly rates.

26 (3) (A) Except as provided in subparagraph (B), the  
27 department shall assign site specific work to a selected  
28 vendor by issuing a task order based on the department's  
29 needs and in consideration of the types of services  
30 available from the vendor without any additional bidding  
31 or negotiation.

32 (B) The department shall not assign work to  
33 implement an approved remedial action plan or remedial  
34 action work plan to the same vendor that performed the  
35 site investigation and remedial design for the site.

36 (4) A vendor may subcontract with other vendors for  
37 the performance of task order work when deemed  
38 necessary and appropriate by the department.

39 (5) When initiating a competitive procurement  
40 process for architectural and engineering services, the

1 department shall notify potential vendors in a manner  
2 consistent with the requirements of Sections 4526 and  
3 4527 of the Government Code.

4 (c) Notwithstanding Section 13332.11 of the  
5 Government Code, the department may contract with a  
6 private vendor to perform necessary removal and  
7 remedial actions at hazardous substance release sites  
8 owned by the state, and the conducting of a removal and  
9 remedial action at a site subject to this subdivision is not  
10 a capital outlay project for those purposes.

11 (d) A contract entered into by the department  
12 pursuant to this section may be for a period of three years,  
13 with an additional one-year extension.

14 (e) Notwithstanding this section, the department shall  
15 comply with Chapter 1 (commencing with Section 1720)  
16 of Part 7 of Division 2 of the Labor Code when entering  
17 into a contract pursuant to this section.

